

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Sections 3 and 7 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

7 Sec. 3. Definitions. As used in this Act, unless the  
8 context otherwise requires:

9 (a) "Board" means the Illinois Labor Relations Board or,  
10 with respect to a matter over which the jurisdiction of the  
11 Board is assigned to the State Panel or the Local Panel under  
12 Section 5, the panel having jurisdiction over the matter.

13 (b) "Collective bargaining" means bargaining over terms  
14 and conditions of employment, including hours, wages, and other  
15 conditions of employment, as detailed in Section 7 and which  
16 are not excluded by Section 4.

17 (c) "Confidential employee" means an employee who, in the  
18 regular course of his or her duties, assists and acts in a  
19 confidential capacity to persons who formulate, determine, and  
20 effectuate management policies with regard to labor relations  
21 or who, in the regular course of his or her duties, has  
22 authorized access to information relating to the effectuation  
23 or review of the employer's collective bargaining policies.

24 (d) "Craft employees" means skilled journeymen, crafts  
25 persons, and their apprentices and helpers.

26 (e) "Essential services employees" means those public  
27 employees performing functions so essential that the  
28 interruption or termination of the function will constitute a  
29 clear and present danger to the health and safety of the  
30 persons in the affected community.

31 (f) "Exclusive representative", except with respect to  
32 non-State fire fighters and paramedics employed by fire

1 departments and fire protection districts, non-State peace  
2 officers, and peace officers in the Department of State Police,  
3 means the labor organization that has been (i) designated by  
4 the Board as the representative of a majority of public  
5 employees in an appropriate bargaining unit in accordance with  
6 the procedures contained in this Act, (ii) historically  
7 recognized by the State of Illinois or any political  
8 subdivision of the State before July 1, 1984 (the effective  
9 date of this Act) as the exclusive representative of the  
10 employees in an appropriate bargaining unit, (iii) after July  
11 1, 1984 (the effective date of this Act) recognized by an  
12 employer upon evidence, acceptable to the Board, that the labor  
13 organization has been designated as the exclusive  
14 representative by a majority of the employees in an appropriate  
15 bargaining unit; ~~or~~ (iv) recognized as the exclusive  
16 representative of personal care attendants or personal  
17 assistants under Executive Order 2003-8 prior to the effective  
18 date of this amendatory Act of the 93rd General Assembly, and  
19 the organization shall be considered to be the exclusive  
20 representative of the personal care attendants or personal  
21 assistants as defined in this Section; or (v) recognized as the  
22 exclusive representative of child and day care home providers,  
23 including licensed and license exempt providers, pursuant to an  
24 election held under Executive Order 2005-1 prior to the  
25 effective date of this amendatory Act of the 94th General  
26 Assembly, and the organization shall be considered to be the  
27 exclusive representative of the child and day care home  
28 providers as defined in this Section.

29 With respect to non-State fire fighters and paramedics  
30 employed by fire departments and fire protection districts,  
31 non-State peace officers, and peace officers in the Department  
32 of State Police, "exclusive representative" means the labor  
33 organization that has been (i) designated by the Board as the  
34 representative of a majority of peace officers or fire fighters  
35 in an appropriate bargaining unit in accordance with the  
36 procedures contained in this Act, (ii) historically recognized

1 by the State of Illinois or any political subdivision of the  
2 State before January 1, 1986 (the effective date of this  
3 amendatory Act of 1985) as the exclusive representative by a  
4 majority of the peace officers or fire fighters in an  
5 appropriate bargaining unit, or (iii) after January 1, 1986  
6 (the effective date of this amendatory Act of 1985) recognized  
7 by an employer upon evidence, acceptable to the Board, that the  
8 labor organization has been designated as the exclusive  
9 representative by a majority of the peace officers or fire  
10 fighters in an appropriate bargaining unit.

11 (g) "Fair share agreement" means an agreement between the  
12 employer and an employee organization under which all or any of  
13 the employees in a collective bargaining unit are required to  
14 pay their proportionate share of the costs of the collective  
15 bargaining process, contract administration, and pursuing  
16 matters affecting wages, hours, and other conditions of  
17 employment, but not to exceed the amount of dues uniformly  
18 required of members. The amount certified by the exclusive  
19 representative shall not include any fees for contributions  
20 related to the election or support of any candidate for  
21 political office. Nothing in this subsection (g) shall preclude  
22 an employee from making voluntary political contributions in  
23 conjunction with his or her fair share payment.

24 (g-1) "Fire fighter" means, for the purposes of this Act  
25 only, any person who has been or is hereafter appointed to a  
26 fire department or fire protection district or employed by a  
27 state university and sworn or commissioned to perform fire  
28 fighter duties or paramedic duties, except that the following  
29 persons are not included: part-time fire fighters, auxiliary,  
30 reserve or voluntary fire fighters, including paid on-call fire  
31 fighters, clerks and dispatchers or other civilian employees of  
32 a fire department or fire protection district who are not  
33 routinely expected to perform fire fighter duties, or elected  
34 officials.

35 (g-2) "General Assembly of the State of Illinois" means the  
36 legislative branch of the government of the State of Illinois,

1 as provided for under Article IV of the Constitution of the  
2 State of Illinois, and includes but is not limited to the House  
3 of Representatives, the Senate, the Speaker of the House of  
4 Representatives, the Minority Leader of the House of  
5 Representatives, the President of the Senate, the Minority  
6 Leader of the Senate, the Joint Committee on Legislative  
7 Support Services and any legislative support services agency  
8 listed in the Legislative Commission Reorganization Act of  
9 1984.

10 (h) "Governing body" means, in the case of the State, the  
11 State Panel of the Illinois Labor Relations Board, the Director  
12 of the Department of Central Management Services, and the  
13 Director of the Department of Labor; the county board in the  
14 case of a county; the corporate authorities in the case of a  
15 municipality; and the appropriate body authorized to provide  
16 for expenditures of its funds in the case of any other unit of  
17 government.

18 (i) "Labor organization" means any organization in which  
19 public employees participate and that exists for the purpose,  
20 in whole or in part, of dealing with a public employer  
21 concerning wages, hours, and other terms and conditions of  
22 employment, including the settlement of grievances.

23 (j) "Managerial employee" means an individual who is  
24 engaged predominantly in executive and management functions  
25 and is charged with the responsibility of directing the  
26 effectuation of management policies and practices.

27 (k) "Peace officer" means, for the purposes of this Act  
28 only, any persons who have been or are hereafter appointed to a  
29 police force, department, or agency and sworn or commissioned  
30 to perform police duties, except that the following persons are  
31 not included: part-time police officers, special police  
32 officers, auxiliary police as defined by Section 3.1-30-20 of  
33 the Illinois Municipal Code, night watchmen, "merchant  
34 police", court security officers as defined by Section 3-6012.1  
35 of the Counties Code, temporary employees, traffic guards or  
36 wardens, civilian parking meter and parking facilities

1 personnel or other individuals specially appointed to aid or  
2 direct traffic at or near schools or public functions or to aid  
3 in civil defense or disaster, parking enforcement employees who  
4 are not commissioned as peace officers and who are not armed  
5 and who are not routinely expected to effect arrests, parking  
6 lot attendants, clerks and dispatchers or other civilian  
7 employees of a police department who are not routinely expected  
8 to effect arrests, or elected officials.

9 (l) "Person" includes one or more individuals, labor  
10 organizations, public employees, associations, corporations,  
11 legal representatives, trustees, trustees in bankruptcy,  
12 receivers, or the State of Illinois or any political  
13 subdivision of the State or governing body, but does not  
14 include the General Assembly of the State of Illinois or any  
15 individual employed by the General Assembly of the State of  
16 Illinois.

17 (m) "Professional employee" means any employee engaged in  
18 work predominantly intellectual and varied in character rather  
19 than routine mental, manual, mechanical or physical work;  
20 involving the consistent exercise of discretion and adjustment  
21 in its performance; of such a character that the output  
22 produced or the result accomplished cannot be standardized in  
23 relation to a given period of time; and requiring advanced  
24 knowledge in a field of science or learning customarily  
25 acquired by a prolonged course of specialized intellectual  
26 instruction and study in an institution of higher learning or a  
27 hospital, as distinguished from a general academic education or  
28 from apprenticeship or from training in the performance of  
29 routine mental, manual, or physical processes; or any employee  
30 who has completed the courses of specialized intellectual  
31 instruction and study prescribed in this subsection (m) and is  
32 performing related work under the supervision of a professional  
33 person to qualify to become a professional employee as defined  
34 in this subsection (m).

35 (n) "Public employee" or "employee", for the purposes of  
36 this Act, means any individual employed by a public employer,

1 including (i) interns and residents at public hospitals ~~and,~~  
2 (ii) as of the effective date of this amendatory Act of the  
3 93rd General Assembly, but not before, personal care attendants  
4 and personal assistants working under the Home Services Program  
5 under Section 3 of the Disabled Persons Rehabilitation Act,  
6 subject to the limitations set forth in this Act and in the  
7 Disabled Persons Rehabilitation Act, and (iii) as of the  
8 effective date of this amendatory Act of the 94th General  
9 Assembly, but not before, child and day care home providers  
10 participating in the child care assistance program under  
11 Section 9A-11 of the Illinois Public Aid Code, subject to the  
12 limitations set forth in this Act and in Section 9A-11 of the  
13 Illinois Public Aid Code, but excluding all of the following:  
14 employees of the General Assembly of the State of Illinois;  
15 elected officials; executive heads of a department; members of  
16 boards or commissions; the Executive Inspectors General; any  
17 special Executive Inspectors General; employees of each Office  
18 of an Executive Inspector General; commissioners and employees  
19 of the Executive Ethics Commission; the Auditor General's  
20 Inspector General; employees of the Office of the Auditor  
21 General's Inspector General; the Legislative Inspector  
22 General; any special Legislative Inspectors General; employees  
23 of the Office of the Legislative Inspector General;  
24 commissioners and employees of the Legislative Ethics  
25 Commission; employees of any agency, board or commission  
26 created by this Act; employees appointed to State positions of  
27 a temporary or emergency nature; all employees of school  
28 districts and higher education institutions except  
29 firefighters and peace officers employed by a state university;  
30 managerial employees; short-term employees; confidential  
31 employees; independent contractors; and supervisors except as  
32 provided in this Act.

33 Personal care attendants and personal assistants shall not  
34 be considered public employees for any purposes not  
35 specifically provided for in the ~~this~~ amendatory Act of the  
36 93rd General Assembly, including but not limited to, purposes

1 of vicarious liability in tort and purposes of statutory  
2 retirement or health insurance benefits. Personal care  
3 attendants and personal assistants shall not be covered by the  
4 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

5 Child and day care home providers shall not be considered  
6 public employees for any purposes not specifically provided for  
7 in this amendatory Act of the 94th General Assembly, including  
8 but not limited to, purposes of vicarious liability in tort and  
9 purposes of statutory retirement or health insurance benefits.  
10 Child and day care home providers shall not be covered by the  
11 State Employees Group Insurance Act of 1971.

12 Notwithstanding Section 9, subsection (c), or any other  
13 provisions of this Act, all peace officers above the rank of  
14 captain in municipalities with more than 1,000,000 inhabitants  
15 shall be excluded from this Act.

16 (o) "Public employer" or "employer" means the State of  
17 Illinois; any political subdivision of the State, unit of local  
18 government or school district; authorities including  
19 departments, divisions, bureaus, boards, commissions, or other  
20 agencies of the foregoing entities; and any person acting  
21 within the scope of his or her authority, express or implied,  
22 on behalf of those entities in dealing with its employees. As  
23 of the effective date of ~~the~~ this amendatory Act of the 93rd  
24 General Assembly, but not before, the State of Illinois shall  
25 be considered the employer of the personal care attendants and  
26 personal assistants working under the Home Services Program  
27 under Section 3 of the Disabled Persons Rehabilitation Act,  
28 subject to the limitations set forth in this Act and in the  
29 Disabled Persons Rehabilitation Act. The State shall not be  
30 considered to be the employer of personal care attendants and  
31 personal assistants for any purposes not specifically provided  
32 for in this amendatory Act of the 93rd General Assembly,  
33 including but not limited to, purposes of vicarious liability  
34 in tort and purposes of statutory retirement or health  
35 insurance benefits. Personal care attendants and personal  
36 assistants shall not be covered by the State Employees Group

1 Insurance Act of 1971 (5 ILCS 375/). As of the effective date  
2 of this amendatory Act of the 94th General Assembly but not  
3 before, the State of Illinois shall be considered the employer  
4 of the day and child care home providers participating in the  
5 child care assistance program under Section 9A-11 of the  
6 Illinois Public Aid Code, subject to the limitations set forth  
7 in this Act and in Section 9A-11 of the Illinois Public Aid  
8 Code. The State shall not be considered to be the employer of  
9 child and day care home providers for any purposes not  
10 specifically provided for in this amendatory Act of the 94th  
11 General Assembly, including but not limited to, purposes of  
12 vicarious liability in tort and purposes of statutory  
13 retirement or health insurance benefits. Child and day care  
14 home providers shall not be covered by the State Employees  
15 Group Insurance Act of 1971.

16 "Public employer" or "employer" as used in this Act,  
17 however, does not mean and shall not include the General  
18 Assembly of the State of Illinois, the Executive Ethics  
19 Commission, the Offices of the Executive Inspectors General,  
20 the Legislative Ethics Commission, the Office of the  
21 Legislative Inspector General, the Office of the Auditor  
22 General's Inspector General, and educational employers or  
23 employers as defined in the Illinois Educational Labor  
24 Relations Act, except with respect to a state university in its  
25 employment of firefighters and peace officers. County boards  
26 and county sheriffs shall be designated as joint or  
27 co-employers of county peace officers appointed under the  
28 authority of a county sheriff. Nothing in this subsection (o)  
29 shall be construed to prevent the State Panel or the Local  
30 Panel from determining that employers are joint or  
31 co-employers.

32 (p) "Security employee" means an employee who is  
33 responsible for the supervision and control of inmates at  
34 correctional facilities. The term also includes other  
35 non-security employees in bargaining units having the majority  
36 of employees being responsible for the supervision and control

1 of inmates at correctional facilities.

2 (q) "Short-term employee" means an employee who is employed  
3 for less than 2 consecutive calendar quarters during a calendar  
4 year and who does not have a reasonable assurance that he or  
5 she will be rehired by the same employer for the same service  
6 in a subsequent calendar year.

7 (r) "Supervisor" is an employee whose principal work is  
8 substantially different from that of his or her subordinates  
9 and who has authority, in the interest of the employer, to  
10 hire, transfer, suspend, lay off, recall, promote, discharge,  
11 direct, reward, or discipline employees, to adjust their  
12 grievances, or to effectively recommend any of those actions,  
13 if the exercise of that authority is not of a merely routine or  
14 clerical nature, but requires the consistent use of independent  
15 judgment. Except with respect to police employment, the term  
16 "supervisor" includes only those individuals who devote a  
17 preponderance of their employment time to exercising that  
18 authority, State supervisors notwithstanding. In addition, in  
19 determining supervisory status in police employment, rank  
20 shall not be determinative. The Board shall consider, as  
21 evidence of bargaining unit inclusion or exclusion, the common  
22 law enforcement policies and relationships between police  
23 officer ranks and certification under applicable civil service  
24 law, ordinances, personnel codes, or Division 2.1 of Article 10  
25 of the Illinois Municipal Code, but these factors shall not be  
26 the sole or predominant factors considered by the Board in  
27 determining police supervisory status.

28 Notwithstanding the provisions of the preceding paragraph,  
29 in determining supervisory status in fire fighter employment,  
30 no fire fighter shall be excluded as a supervisor who has  
31 established representation rights under Section 9 of this Act.  
32 Further, in new fire fighter units, employees shall consist of  
33 fire fighters of the rank of company officer and below. If a  
34 company officer otherwise qualifies as a supervisor under the  
35 preceding paragraph, however, he or she shall not be included  
36 in the fire fighter unit. If there is no rank between that of

1 chief and the highest company officer, the employer may  
2 designate a position on each shift as a Shift Commander, and  
3 the persons occupying those positions shall be supervisors. All  
4 other ranks above that of company officer shall be supervisors.

5 (s) (1) "Unit" means a class of jobs or positions that are  
6 held by employees whose collective interests may suitably  
7 be represented by a labor organization for collective  
8 bargaining. Except with respect to non-State fire fighters  
9 and paramedics employed by fire departments and fire  
10 protection districts, non-State peace officers, and peace  
11 officers in the Department of State Police, a bargaining  
12 unit determined by the Board shall not include both  
13 employees and supervisors, or supervisors only, except as  
14 provided in paragraph (2) of this subsection (s) and except  
15 for bargaining units in existence on July 1, 1984 (the  
16 effective date of this Act). With respect to non-State fire  
17 fighters and paramedics employed by fire departments and  
18 fire protection districts, non-State peace officers, and  
19 peace officers in the Department of State Police, a  
20 bargaining unit determined by the Board shall not include  
21 both supervisors and nonsupervisors, or supervisors only,  
22 except as provided in paragraph (2) of this subsection (s)  
23 and except for bargaining units in existence on January 1,  
24 1986 (the effective date of this amendatory Act of 1985). A  
25 bargaining unit determined by the Board to contain peace  
26 officers shall contain no employees other than peace  
27 officers unless otherwise agreed to by the employer and the  
28 labor organization or labor organizations involved.  
29 Notwithstanding any other provision of this Act, a  
30 bargaining unit, including a historical bargaining unit,  
31 containing sworn peace officers of the Department of  
32 Natural Resources (formerly designated the Department of  
33 Conservation) shall contain no employees other than such  
34 sworn peace officers upon the effective date of this  
35 amendatory Act of 1990 or upon the expiration date of any  
36 collective bargaining agreement in effect upon the

1 effective date of this amendatory Act of 1990 covering both  
2 such sworn peace officers and other employees.

3 (2) Notwithstanding the exclusion of supervisors from  
4 bargaining units as provided in paragraph (1) of this  
5 subsection (s), a public employer may agree to permit its  
6 supervisory employees to form bargaining units and may  
7 bargain with those units. This Act shall apply if the  
8 public employer chooses to bargain under this subsection.

9 (Source: P.A. 93-204, eff. 7-16-03; 93-617, eff. 12-9-03.)

10 (5 ILCS 315/7) (from Ch. 48, par. 1607)

11 Sec. 7. Duty to bargain. A public employer and the  
12 exclusive representative have the authority and the duty to  
13 bargain collectively set forth in this Section.

14 For the purposes of this Act, "to bargain collectively"  
15 means the performance of the mutual obligation of the public  
16 employer or his designated representative and the  
17 representative of the public employees to meet at reasonable  
18 times, including meetings in advance of the budget-making  
19 process, and to negotiate in good faith with respect to wages,  
20 hours, and other conditions of employment, not excluded by  
21 Section 4 of this Act, or the negotiation of an agreement, or  
22 any question arising thereunder and the execution of a written  
23 contract incorporating any agreement reached if requested by  
24 either party, but such obligation does not compel either party  
25 to agree to a proposal or require the making of a concession.

26 The duty "to bargain collectively" shall also include an  
27 obligation to negotiate over any matter with respect to wages,  
28 hours and other conditions of employment, not specifically  
29 provided for in any other law or not specifically in violation  
30 of the provisions of any law. If any other law pertains, in  
31 part, to a matter affecting the wages, hours and other  
32 conditions of employment, such other law shall not be construed  
33 as limiting the duty "to bargain collectively" and to enter  
34 into collective bargaining agreements containing clauses which  
35 either supplement, implement, or relate to the effect of such

1 provisions in other laws.

2 The duty "to bargain collectively" shall also include  
3 negotiations as to the terms of a collective bargaining  
4 agreement. The parties may, by mutual agreement, provide for  
5 arbitration of impasses resulting from their inability to agree  
6 upon wages, hours and terms and conditions of employment to be  
7 included in a collective bargaining agreement. Such  
8 arbitration provisions shall be subject to the Illinois  
9 "Uniform Arbitration Act" unless agreed by the parties.

10 The duty "to bargain collectively" shall also mean that no  
11 party to a collective bargaining contract shall terminate or  
12 modify such contract, unless the party desiring such  
13 termination or modification:

14 (1) serves a written notice upon the other party to the  
15 contract of the proposed termination or modification 60 days  
16 prior to the expiration date thereof, or in the event such  
17 contract contains no expiration date, 60 days prior to the time  
18 it is proposed to make such termination or modification;

19 (2) offers to meet and confer with the other party for the  
20 purpose of negotiating a new contract or a contract containing  
21 the proposed modifications;

22 (3) notifies the Board within 30 days after such notice of  
23 the existence of a dispute, provided no agreement has been  
24 reached by that time; and

25 (4) continues in full force and effect, without resorting  
26 to strike or lockout, all the terms and conditions of the  
27 existing contract for a period of 60 days after such notice is  
28 given to the other party or until the expiration date of such  
29 contract, whichever occurs later.

30 The duties imposed upon employers, employees and labor  
31 organizations by paragraphs (2), (3) and (4) shall become  
32 inapplicable upon an intervening certification of the Board,  
33 under which the labor organization, which is a party to the  
34 contract, has been superseded as or ceased to be the exclusive  
35 representative of the employees pursuant to the provisions of  
36 subsection (a) of Section 9, and the duties so imposed shall

1 not be construed as requiring either party to discuss or agree  
2 to any modification of the terms and conditions contained in a  
3 contract for a fixed period, if such modification is to become  
4 effective before such terms and conditions can be reopened  
5 under the provisions of the contract.

6 Collective bargaining for personal care attendants and  
7 personal assistants under the Home Services Program shall be  
8 limited to the terms and conditions of employment under the  
9 State's control, as defined in the ~~this~~ amendatory Act of the  
10 93rd General Assembly.

11 Collective bargaining for child and day care home providers  
12 under the child care assistance program shall be limited to the  
13 terms and conditions of employment under the State's control,  
14 as defined in this amendatory Act of the 94th General Assembly.  
15 (Source: P.A. 93-204, eff. 7-16-03.)

16 Section 10. The Illinois Public Aid Code is amended by  
17 changing Section 9A-11 as follows:

18 (305 ILCS 5/9A-11) (from Ch. 23, par. 9A-11)

19 Sec. 9A-11. Child Care.

20 (a) The General Assembly recognizes that families with  
21 children need child care in order to work. Child care is  
22 expensive and families with low incomes, including those who  
23 are transitioning from welfare to work, often struggle to pay  
24 the costs of day care. The General Assembly understands the  
25 importance of helping low income working families become and  
26 remain self-sufficient. The General Assembly also believes  
27 that it is the responsibility of families to share in the costs  
28 of child care. It is also the preference of the General  
29 Assembly that all working poor families should be treated  
30 equally, regardless of their welfare status.

31 (b) To the extent resources permit, the Illinois Department  
32 shall provide child care services to parents or other relatives  
33 as defined by rule who are working or participating in  
34 employment or Department approved education or training

1 programs. At a minimum, the Illinois Department shall cover the  
2 following categories of families:

3 (1) recipients of TANF under Article IV participating  
4 in work and training activities as specified in the  
5 personal plan for employment and self-sufficiency;

6 (2) families transitioning from TANF to work;

7 (3) families at risk of becoming recipients of TANF;

8 (4) families with special needs as defined by rule; and

9 (5) working families with very low incomes as defined  
10 by rule.

11 The Department shall specify by rule the conditions of  
12 eligibility, the application process, and the types, amounts,  
13 and duration of services. Eligibility for child care benefits  
14 and the amount of child care provided may vary based on family  
15 size, income, and other factors as specified by rule.

16 In determining income eligibility for child care benefits,  
17 the Department annually, at the beginning of each fiscal year,  
18 shall establish, by rule, one income threshold for each family  
19 size, in relation to percentage of State median income for a  
20 family of that size, that makes families with incomes below the  
21 specified threshold eligible for assistance and families with  
22 incomes above the specified threshold ineligible for  
23 assistance. The specified threshold must be no less than 50% of  
24 the then-current State median income for each family size.

25 In determining eligibility for assistance, the Department  
26 shall not give preference to any category of recipients or give  
27 preference to individuals based on their receipt of benefits  
28 under this Code.

29 The Department shall allocate \$7,500,000 annually for a  
30 test program for families who are income-eligible for child  
31 care assistance, who are not recipients of TANF under Article  
32 IV, and who need child care assistance to participate in  
33 education and training activities. The Department shall  
34 specify by rule the conditions of eligibility for this test  
35 program.

36 Nothing in this Section shall be construed as conferring

1 entitlement status to eligible families.

2 The Illinois Department is authorized to lower income  
3 eligibility ceilings, raise parent co-payments, create waiting  
4 lists, or take such other actions during a fiscal year as are  
5 necessary to ensure that child care benefits paid under this  
6 Article do not exceed the amounts appropriated for those child  
7 care benefits. These changes may be accomplished by emergency  
8 rule under Section 5-45 of the Illinois Administrative  
9 Procedure Act, except that the limitation on the number of  
10 emergency rules that may be adopted in a 24-month period shall  
11 not apply.

12 The Illinois Department may contract with other State  
13 agencies or child care organizations for the administration of  
14 child care services.

15 (c) Payment shall be made for child care that otherwise  
16 meets the requirements of this Section and applicable standards  
17 of State and local law and regulation, including any  
18 requirements the Illinois Department promulgates by rule in  
19 addition to the licensure requirements promulgated by the  
20 Department of Children and Family Services and Fire Prevention  
21 and Safety requirements promulgated by the Office of the State  
22 Fire Marshal and is provided in any of the following:

23 (1) a child care center which is licensed or exempt  
24 from licensure pursuant to Section 2.09 of the Child Care  
25 Act of 1969;

26 (2) a licensed child care home or home exempt from  
27 licensing;

28 (3) a licensed group child care home;

29 (4) other types of child care, including child care  
30 provided by relatives or persons living in the same home as  
31 the child, as determined by the Illinois Department by  
32 rule.

33 (b-5) Solely for the purposes of coverage under the  
34 Illinois Public Labor Relations Act, child and day care home  
35 providers, including licensed and license exempt,  
36 participating in the Department's child care assistance

1 program shall be considered to be public employees and the  
2 State of Illinois shall be considered to be their employer as  
3 of the effective date of this amendatory Act of the 94th  
4 General Assembly, but not before. The State shall engage in  
5 collective bargaining with an exclusive representative of  
6 child and day care home providers participating in the child  
7 care assistance program concerning their terms and conditions  
8 of employment that are within the State's control. Nothing in  
9 this subsection shall be understood to limit the right of  
10 families receiving services defined in this Section to select  
11 child and day care home providers or supervise them within the  
12 limits of this Section. The State shall not be considered to be  
13 the employer of child and day care home providers for any  
14 purposes not specifically provided in this amendatory Act of  
15 the 94th General Assembly, including but not limited to,  
16 purposes of vicarious liability in tort and purposes of  
17 statutory retirement or health insurance benefits. Child and  
18 day care home providers shall not be covered by the State  
19 Employees Group Insurance Act of 1971.

20 In according child and day care home providers and their  
21 selected representative rights under the Illinois Public Labor  
22 Relations Act, the State intends that the State action  
23 exemption to application of federal and State antitrust laws be  
24 fully available to the extent that their activities are  
25 authorized by this amendatory Act of the 94th General Assembly.

26 (d) The Illinois Department shall, by rule, require  
27 co-payments for child care services by any parent, including  
28 parents whose only income is from assistance under this Code.  
29 The co-payment shall be assessed based on a sliding scale based  
30 on family income, family size, and the number of children in  
31 care. Co-payments shall not be increased due solely to a change  
32 in the methodology for counting family income.

33 (e) The Illinois Department shall conduct a market rate  
34 survey based on the cost of care and other relevant factors  
35 which shall be completed by July 1, 1998.

36 (f) The Illinois Department shall, by rule, set rates to be

1 paid for the various types of child care. Child care may be  
2 provided through one of the following methods:

3 (1) arranging the child care through eligible  
4 providers by use of purchase of service contracts or  
5 vouchers;

6 (2) arranging with other agencies and community  
7 volunteer groups for non-reimbursed child care;

8 (3) (blank); or

9 (4) adopting such other arrangements as the Department  
10 determines appropriate.

11 (f-5) The Illinois Department, in consultation with its  
12 Child Care and Development Advisory Council, shall develop a  
13 comprehensive plan to revise the State's rates for the various  
14 types of child care. The plan shall be completed no later than  
15 January 1, 2005 and shall include:

16 (1) Base reimbursement rates that are adequate to  
17 provide children receiving child care services from  
18 the Department equal access to quality child care,  
19 utilizing data from the most current market rate  
20 survey.

21 (2) A tiered reimbursement rate system that  
22 financially rewards providers of child care services  
23 that meet defined benchmarks of higher-quality care.

24 (3) Consideration of revisions to existing county  
25 groupings and age classifications, utilizing data from  
26 the most current market rate survey.

27 (4) Consideration of special rates for certain  
28 types of care such as caring for a child with a  
29 disability.

30 (g) Families eligible for assistance under this Section  
31 shall be given the following options:

32 (1) receiving a child care certificate issued by the  
33 Department or a subcontractor of the Department that may be  
34 used by the parents as payment for child care and  
35 development services only; or

36 (2) if space is available, enrolling the child with a

1 child care provider that has a purchase of service contract  
2 with the Department or a subcontractor of the Department  
3 for the provision of child care and development services.  
4 The Department may identify particular priority  
5 populations for whom they may request special  
6 consideration by a provider with purchase of service  
7 contracts, provided that the providers shall be permitted  
8 to maintain a balance of clients in terms of household  
9 incomes and families and children with special needs, as  
10 defined by rule.

11 (Source: P.A. 93-361, eff. 9-1-03; 93-1062, eff. 12-23-04.)